

ESTTA Tracking number: **ESTTA527288**Filing date: **03/18/2013**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Delta Air Lines, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	1030 Delta Boulevard Atlanta, GA 30320-2574 UNITED STATES		

Attorney information	Mariana Paula Noli Ladas & Parry LLP 224 South Michigan Ave. Suite 1600 Chicago, IL 60604 UNITED STATES mnoli@ladas.net, chiustm@ladas.net Phone:312-427-1300
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Registration Subject to Cancellation

Registration No	2949703	Registration date	05/10/2005
Registrant	SKY MEDIA INTERNATIONAL, LLC 4680 SOUTH POLARIS, THIRD FLOOR LAS VEGAS, NV 89103 UNITED STATES		

Goods/Services Subject to Cancellation

Class 035. First Use: 2002/02/04 First Use In Commerce: 2002/02/04 All goods and services in the class are cancelled, namely: advertising services, namely, placing advertising for others in the passenger cabins of airliners and other transportation vehicles
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Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14

Attachments	2013-03-18 FINAL Cancellation Petition.pdf (4 pages)(22454 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Mariana Paula Noli/
Name	Mariana Paula Noli

Date	03/18/2013
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of U.S. Registration No. 2,949,703
Trademark: SKYMEDIA

Delta Air Lines, INC.,	§	Cancellation No. _____
	§	
Petitioner	§	
	§	
vs.	§	
	§	Petition to Cancel
Sky Media International, LLC.	§	U.S. Registration No. 2,949,703
	§	
Respondent.	§	

Delta Air Lines, Inc. believes it is or will be damaged by U.S. Registration No. 2,949,703 and hereby petitions to cancel same. As grounds therefore, it is alleged as follows:

I- INTRODUCTION

1. Petitioner is a Delaware Corporation with its principal place of business at 1030 Delta Boulevard, Atlanta, GEORGIA 30320-2574. Petitioner has filed an application to register the mark DELTA SKY MEDIA for “*providing advertising services which promote the goods and services of others across a global digital network and through print, audio, video, digital and on-line medium; providing advertising space on digital banners, gate information display systems, flight information display systems, billboards, kiosks and free standing visual advertising systems which promote the goods and services of others; providing advertising space promoting the goods and services of others to in-flight airline passengers through print, audio, video, digital and on-line medium, digital display screens, and free standing visual advertising systems,*” Serial No. 85/770,474. The registration sought to be canceled has been cited as a basis for refusal of applicant’s application.

2. U.S. Registration No. 2,949,703 for SKYMEDIA was originally registered to In-Transit Communications Inc., an Arizona Corporation, with its principal place of business at 3600 Bur Wood Drive, Waukegan, IL 60085, and later assigned to Respondent, Sky Media International, Inc., a Nevada Corporation with its principal place of business at 4680 South Polaris, Third Floor, Las Vegas, Nevada 89103, Nevada.

3. The registration sought to be cancelled is in respect of the mark SKYMEDIA for “*advertising services, namely, placing advertising for others in the passenger cabins of airlines and other transportation vehicles, in international class 35.*”

**II- FIRST CAUSE OF ACTION FOR CANCELLATION BASED ON
ABANDONMENT**

4. Respondent has abandoned the mark and by extension the registration because it has ceased to use the mark in connection with the services.

**III- SECOND CAUSE OF ACTION FOR CANCELLATION BASED ON FRAUD
TO THE TRADEMARK OFFICE**

5. On November 9, 2011, Respondent filed a continued use declaration under Section 8 and 15 of the Lanham Act alleging that, as of the date of the filing of the combined declaration, the mark SKYMEDIA was in current use in commerce in connection with the services.

6. Petitioner has conducted an investigation as to whether the Respondent is currently using the mark SKYMEDIA in connection with the services covered by the registration. Petitioner has been unable to find any use of the mark SKYMEDIA by Respondent. The only evidence of use are the articles filed with the USPTO in support of the combined Section 8 and 15 declaration.

7. The claim of use of the mark as of the filing date of the combined Section 8 and 15 declaration was a false statement and Respondent knew at the time it made the statement that it was false.

8. The false statement was a material misrepresentation to the Trademark Office and Respondent made the false statement with intent to deceive the Trademark Office in order to maintain its registration.

IV- PRAYER

9. The existence of the registration sought to be canceled damage to Petitioner in that Petitioner is unable to obtain a registration for its mark DELTA SKY MEDIA because of the existence of the registration sought to be canceled.

10. Wherefore, Petitioner prays that the U.S. Registration No. 2,949,703 be canceled.

Please charge any necessary fee regarding this Opposition to Deposit Account No. 12-0400, and credit any overpayment to such deposit account.

Respectfully submitted,

Dated: March 18, 2013

By: /Mariana Paula Noli/
Mariana Paula Noli
Attorneys for Petitioner

Ladas & Parry LLP
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Chicago, IL 60604
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CERTIFICATE OF ELECTRONIC FILING

I hereby certify that a copy of the foregoing PETITION TO CANCEL is being electronically filed with the United States Patent and Trademark Office on this 18 day of March, 2013.

/Mariana Paula Noli/_____

Mariana Paula Noli

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PETITION TO CANCEL was submitted via facsimile to (513) 241-6234 and deposited with the U.S. Postal Service on this 18 day of March 2013 as first class mail, postage prepaid, addressed to correspondent for Respondent, as follows:

Theodore R. Remaklus
WOOD, HERRON & EVANS, L.L.P.
441 Vine Street
2700 Carew Tower
CINCINNATI, OHIO 45202
UNITED STATES

Dated: March 18, 2013

By: /Mariana Paula Noli/_____

Mariana Paula Noli